

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

ESTELLA PARKER,

Plaintiff,

v.

SOUTHCREST HOSPITAL,

Defendant.

)
)
)
)
)
)
)
)
)
)

Case No. 08-CV-631-GKF-PJC

OPINION AND ORDER

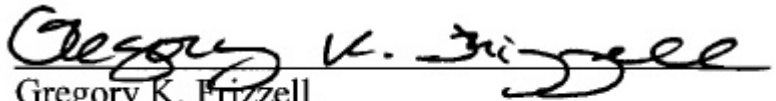
This matter comes before the court on the Motion to Dismiss (Dkt. #17) of defendant SouthCrest Hospital (“SouthCrest”). SouthCrest argues that the court does not possess subject matter jurisdiction over the case because plaintiff Estella Park (“Ms. Parker”) failed to comply with Title VII filing requirements.

Ms. Parker was issued a Notice of Right to Sue by the Equal Employment Opportunity Commission (“EEOC”) on July 30, 2008. Appearing *pro se*, she filed a timely complaint with this court on October 24, 2008. (Dkt. #1). No attorney entered an appearance on her behalf at any point during the case. On March 31, 2009, the court gave Ms. Parker until April 21, 2009, to show cause why her complaint should not be dismissed for failure to serve the defendants. (Dkt. #3). Ms. Parker never responded to this show cause order, and her complaint was dismissed without prejudice by court order on June 18, 2009. (Dkt. #4). Almost one year later, Ms. Parker moved to reopen this case, stating that she did not receive adequate legal advice from her attorney, and that she needed important information from the EEOC. The court granted Ms. Parker’s Motion to Reopen on June 18, 2010. (Dkt. #5).

SouthCrest argues that Ms. Parker's claim became barred during the year that elapsed between the dismissal of her suit, and the filing of her motion to reopen. All of the case law presented by SouthCrest is inapposite because it deals with a situation where a complaint is dismissed and then refiled. If, as here, the case is reopened rather than refiled, then the original filing date controls. Because the complaint in this case was filed within the 90 day period provided by Title VII, it is timely.

WHEREFORE, the Motion to Dismiss (Dkt. #17) of defendant SouthCrest Hospital is denied.

DATED this 13th day of May, 2011.


Gregory K. Frizzell
United States District Judge
Northern District of Oklahoma